

**THE UNIVERSITY TRIBUNAL
THE UNIVERSITY OF TORONTO**

IN THE MATTER OF charges of academic dishonesty made on May 12, 2022,
AND IN THE MATTER OF the University of Toronto *Code of Behaviour on Academic Matters*, 1995,
AND IN THE MATTER OF the *University of Toronto Act, 1971*, S.O. 1971, c. 56 as am. S.O. 1978, c. 88

B E T W E E N:

THE UNIVERSITY OF TORONTO

- and -

Y C [REDACTED] and L [REDACTED] F [REDACTED]

REASONS FOR DECISION

Hearing Date: December 16, 2022, via Zoom

Members of the Panel:

Simon Clements, Chair
Professor Alexander Koo, Faculty Panel Member
Charles Buck, Student Panel Member

Appearances:

Tina Lie, Assistant Discipline Counsel, Paliare Roland Rosenberg Rothstein LLP
Joseph Berger, Co-Counsel, Paliare Roland Rosenberg Rothstein LLP

Hearing Secretary:

Samanthe Huang, Quasi-Judicial Administrative Assistant, Office of Appeals, Discipline and Faculty Grievances

Not in Attendance:

Y C [REDACTED]
L [REDACTED] F [REDACTED]

1. This Panel of the University Tribunal held a hearing on December 16, 2022, to consider the charges brought by the University of Toronto (the “University”) against Y.C. (“Y.C.”) and L.F. (“L.F.”) under the *Code of Behaviour on Academic Matters, 1995* (the “Code”). It is alleged that the Students knowingly obtained unauthorized assistance in connection with the midterm exam in MATA30H3F (the “Course”), contrary to section B.I.1(b) of the Code or, in the alternative knowingly represented as their own, an idea or expression of an idea or work of another in the midterm exam in the Course, contrary to section B.I.1(d) of the Code or, in the further alternative that the Students each knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with the midterm exam in the Course, contrary to section B.I.3(b) of the Code.
2. On November 9, 2022, the University brought a motion for these two matters to be heard together. For reasons released on November 21, 2022, an Order was made that the hearing of charges made against student Y.C. in Case No. 1372, and against student L.F. in Case No. 1373 would be heard together. The proceedings against Y.C. and L.F. share questions of fact, law and/or mixed fact and law in common, involve the same parties, and arise out of the same transaction or occurrence.

A. Preliminary Issue: Proceeding in the Absence of the Students

3. The hearing was scheduled to begin at 9:45 a.m. on December 16, 2022. At that time, Assistant Discipline Counsel advised that neither of the Students nor a representative of the Students had responded to the Notice of Electronic Hearing.
4. When the Students had not joined the hearing via Zoom at 9:45 a.m., Assistant Discipline Counsel made submissions on proceeding with the hearing in the absence of the Students.

5. With respect to Student Y.C., the University filed the Affidavit of Kimberly Blake affirmed on December 15, 2022. In her affidavit Ms. Blake described the efforts that both the University and the law firm of Assistant Discipline Counsel had made to contact the Student dating back to November 25, 2020. Y.C. has never responded to any of these attempts to contact her to discuss the Charges or scheduling a hearing date.
6. On May 12, 2022, the Office of the Vice-Provost, Faculty and Academic Life served the charges in this matter on the Student by email to ██████████@mail.utoronto.ca, the email address that Y.C. had provided in ROSI.
7. On May 12, 2022, the Office of Appeals, Discipline and Faculty Grievances (the “ADFG Office”) served the Student with a letter regarding the charges that were filed against her, together with copies of the charges, the *Code of Behaviour on Academic Matters*, the Tribunal’s *Rules of Practice and Procedure* and a pamphlet for Downtown Legal Services, by email at ██████████@mail.utoronto.ca.
8. On November 21, 2022, the ADFG Office served the Student with the Notice of Electronic Hearing for a hearing on Friday, December 16, 2022, at 9:45 a.m., together with copies of the ADFG letter regarding the charges that were filed against the Student (dated May 12, 2022) and enclosures (which included the charges), by email to the Student at ██████████@mail.utoronto.ca.
9. The email from the ADFG Office advised the Student that the hearing would be conducted using the Zoom videoconferencing platform and provided the Student with the coordinates to access the videoconference.
10. Ms. Blake deposed in her affidavit that Assistant Discipline Counsel has not received any correspondence from the Student, and that Ms. Lie did not receive a “bounce back” message indicating that her email messages could not be delivered.
11. In addition to the attempts to contact Y.C. by email, further attempts to contact the Student were made by other means.

12. On August 9, 2022, Ms. Blake attempted to call the Student at [REDACTED] which is the phone number that the Student had provided in ROSI. This call went to an automated recording that advised that the customer was unavailable and to try again later, without the opportunity to leave a voicemail message. Ms. Blake attempted to call the number again on November 22, 2022, and on November 28, 2022. Both calls went to the same automated recording.
13. On December 12, 2022, Ms. Blake sent a letter to the Student by email and by courier to [REDACTED] which is the mailing address and permanent address that the Student had provided in ROSI. The letter attached a copy of the charges and the Notice of Electronic Hearing (together with the covering email which contained the Zoom access details).
14. A delivery notification from the courier company dated December 12, 2022, notes that [REDACTED], is a school and that the delivery person was advised that no one by the Student's name works there. The delivery notification indicates the package was being returned to sender.
15. The University submitted the Affidavit of Mr. Andrew Wagg affirmed on November 28, 2022. Mr. Wagg is a Manager, Incident Response, in Information Security Information Technology Services at the University of Toronto. Information Technology Services manages the email accounts used by students. On November 25, 2022, Mr. Wagg was able to determine that the last time someone accessed the email account of Y.C. was on July 14, 2021 at 11:31 p.m. local Toronto time.
16. With respect to Student L.F., the University filed the Affidavit of Kimberly Blake affirmed on December 15, 2022. In her affidavit Ms. Blake described the efforts that both the University and the law firm of Assistant Discipline Counsel had made to contact L.F. dating back to November 25, 2020. The Student has never responded to any of these attempts to contact her to discuss the charges, or scheduling a hearing date.

17. On May 12, 2022, the Office of the Vice-Provost, Faculty and Academic Life served the charges in this matter on the Student by email to [REDACTED]@mail.utoronto.ca, the email address that L.F. had provided in ROSI.
18. On May 12, 2022, the ADFG Office served the Student with a letter regarding the charges that were filed against him, together with copies of the charges, the *Code of Behaviour on Academic Matters*, the Tribunal's *Rules of Practice and Procedure* and a pamphlet for Downtown Legal Services, by email at [REDACTED]@mail.utoronto.ca.
19. On May 17, 2022, Assistant Discipline Counsel sent the Student an email to introduce herself. Ms. Lie advised that important documents and correspondence would be sent to the Student's mail.utoronto.ca email address.
20. On November 21, 2022, the ADFG Office served the Student with the Notice of Electronic Hearing for a hearing on Friday, December 16, 2022, at 9:45 a.m., together with copies of the ADFG letter regarding the charges that were filed against the Student (dated May 12, 2022) and enclosures (which included the charges), by email to the Student at [REDACTED]@mail.utoronto.ca.
21. Ms. Blake was advised by Ms. Lie that she has not received any correspondence from the Student and that Ms. Lie did not receive a "bounce back" message indicating that her email messages could not be delivered.
22. As with Student Y.C., further attempts were made to contact Student L.F. by phone and letter.
23. On August 9, 2022, Ms. Blake attempted to call L.F. at [REDACTED], which is the phone number that the Student had provided in ROSI. This call went to an automated recording that advised that the customer she was calling was unavailable and to try again later, without the opportunity to leave a voicemail message.

24. On November 22, 2022, Ms. Blake attempted to call L.F. again at [REDACTED]. On this occasion, the call was answered by someone. When Ms. Blake requested to speak to L.F., she was advised that she had the wrong number.
25. On December 12, 2022, Ms. Blake sent a letter to L.F. by email and by courier to
 - (a) [REDACTED], which is the mailing address that the Student had provided in ROSI, and
 - (b) [REDACTED], which is the permanent address that the Student had provided in ROSI.
26. Ms. Blake indicated that with respect to the [REDACTED] address she was advised by the courier that the address was a UPS store. The letter was signed for by someone named Victoria. With respect to the [REDACTED] address, this building was an apartment building. Building security would not accept the letter because L.F.'s name was not listed in the building directory.
27. Ms. Blake affirmed that as of December 15, 2022, L.F. had not responded to any of the attempts to contact him.
28. The University submitted the Affidavit of Mr. Andrew Wagg affirmed on November 28, 2022. Mr. Wagg is Manager, Incident Response, in Information Security Information Technology Services at the University of Toronto. Information Technology Services manages the email accounts used by students. On November 25, 2022, Mr. Wagg was able to determine that the last time someone accessed the email account of the Student was on February 19, 2022 at 2:32 a.m. local Toronto time.
29. The University requested that the Tribunal proceed with this hearing in the absence of the Students.
30. The *Statutory Powers and Procedures Act* (the "Act"), section 6 states that the parties to a proceeding shall be given reasonable notice of the hearing by the tribunal. Section 7(3) states that where reasonable notice of the hearing has been given to a party to a

proceeding in accordance with the Act and the party does not participate in accordance with the notice, the tribunal may proceed without the party's participation and the party is not entitled to any further notice in the proceeding.

31. The *Rules of Practice and Procedure* as they existed at the time of the hearing (the "Rules"), rule 9¹ states that charges, notices of hearing, and disclosure maybe served on a student by email or by courier. Rule 17² mirrors the provision in section 7(3) of the Act. Where notice of an electronic hearing has been given to the student in accordance with the Rules and the student does not attend hearing, the panel may proceed in the absence of the student.
32. Pursuant to rule 9³, a Notice of Hearing may be served on a student by various means, including by sending a copy of the document by courier to the student's mailing address in ROSI or by emailing a copy of the document to the student's email address in ROSI.
33. The University's *Policy on Official Correspondence with Students* expressly states that students are responsible for maintaining a current and valid postal address and email account on ROSI. Students are expected to monitor and retrieve all mail, including emails, on a frequent and consistent basis.
34. The onus of proof is on the University to demonstrate that it provided a student with reasonable notice of the hearing.
35. In this case, the University provided reasonable notice to the Students. The evidence shows that multiple attempts were made to contact the Students at their email, by phone and courier. Both Students were contacted by the University in November 2020, at a time when both Students were still expected to monitor their University

¹ This provision is now rule 13 under the current Rules.

² This provision is now rule 21 under the current Rules.

³ This provision is now rule 13 under the current Rules.

email accounts. Neither Student ever responded to the University's requests to meet regarding concerns with their Midterm answers. The University complied with the Rules and the Act by providing the Students with notice of the hearing by email as required.

36. For these reasons the Tribunal determined that it would proceed with the hearing in the absence of the Students.

B. The Charges and Particulars

37. The Charges against the Students are identical.

- (a) On or about October 24, 2020, you knowingly obtained unauthorized assistance in connection with the midterm exam in MATA30H3F (the "Course"), contrary to section B.I.1(b) of the Code.
- (b) In the alternative, on or about October 24, 2020, you knowingly represented as your own an idea or expression of an idea or work of another in the midterm exam in the Course, contrary to section B.I.1(d) of the Code.
- (c) In the further alternative, on or about October 24, 2020, you knowingly engaged in a form of cheating, academic dishonesty or misconduct, fraud or misrepresentation not otherwise described in the Code in order to obtain academic credit or other academic advantage of any kind in connection with the midterm exam in the Course, contrary to section B.I.3(b) of the Code.

38. Particulars of the offences charged are as follows:

- (a) At all material times you were a student enrolled at the University of Toronto Scarborough.
- (b) In Fall 2020, you enrolled in MATA30H3F (Calculus I for Physical Sciences).
- (c) Due to the covid19 pandemic, the Course was administered online. Students in the Course were assessed on the basis of, among other things, a midterm exam worth 30% of their final grades.

- (d) The midterm exam was administered online on October 24, 2020. Students were required to complete the midterm exam independently.
- (e) You knowingly obtained unauthorized assistance on the midterm exam from another student, (the “Other Student”), or others, and/or aided, assisted, abetted, counselled, procured or conspired with the Other Student or others to obtain unauthorized assistance on the midterm exam.
- (f) You submitted your answers to the midterm exam:
 - (a) to obtain academic credit;
 - (b) knowing that they contained ideas, expressions of ideas or work which were not your own, but were the ideas, expressions of ideas or work of others, including the Other Student; and
 - (c) knowing that you did not properly reference the ideas, expressions of ideas or work that you drew from the Other Student or others.
- (g) You knowingly aided, assisted, abetted, counselled, procured or conspired with the Other Student or others to commit the offence of plagiarism in the midterm exam.
- (h) You knowingly submitted the midterm exam with the intention that the University of Toronto Scarborough rely on it as containing your own ideas or work in considering the appropriate academic credit to be assigned to your work.

C. The Evidence

39. The University submitted the Affidavit of Professor Michael Carvers, affirmed on December 9, 2022. Professor Carvers is an Assistant Professor, Teaching Stream in the Department of Computer and Mathematical Sciences (the “Department”) at the University of Toronto Scarborough (“UTSC”). Additionally, he is a Chair’s Designate for Academic Integrity in the Department and is currently an instructor for the course MATA30H3F: Calculus I for Physical Sciences (the “Course”).

(i) The Course

40. The Course is designed to teach students techniques and concepts of calculus including elementary functions, derivatives and integrals.
41. In Fall 2020, Y.C. and L.F. were enrolled in the Course. The instructors were Lucas Ashbury-Bridgwood and Fazle Chowdhury, who were sessional instructors and are no longer with the University. Professor Carvers obtained the information regarding the Students and the Midterm that is in issue in this matter from the file that the instructors from Fall 2020 submitted to the UTSC Academic Integrity Office and from subsequent correspondence with the instructors.
42. As set out in the course outline, students in the Course were evaluated based on the results of six assignments, six quizzes, the Midterm, and a final examination.
43. Under the heading “Academic Integrity Statement” the course outline provided a link to the University of Toronto’s *Code of Behaviour on Academic Matters* (“Code”) and noted that for tests and exams potential academic offences included but were not limited to: using or possessing unauthorized aids, looking at someone else’s answers during an exam or test, misrepresenting your identity when you knew or ought to have known you were doing it.

(ii) The Midterm Examination

44. The Midterm was administered online on October 24, 2020, from 5:00 p.m. to 7:00 p.m. Students were required to complete the Midterm independently. Students were also advised that no aids were permitted during the test including working with other students, using notes or textbooks, or getting answers from the Internet.
45. Both Students submitted their Midterm answers online on October 24, 2020. Y.C. submitted her Midterm answers at 7:16 p.m. L.F. submitted his Midterm answers at 7:07 p.m. Y.C. received a score of 75% on the Midterm, while L.F. received a score of 94%.

46. On review, the instructors in the Course became suspicious that the Students had collaborated on the Midterm based on the similarities of their answers. Almost all of the Students' answers were identical or virtually identical. However, L.F. submitted answers to two questions to which Y.C. did not submit an answer.
47. It was Professor Carvers' opinion, as stated in his Affidavit, that the degree of similarity between the Midterm answers submitted by the Students was highly suspicious. The answers are virtually identical to one another, including the same steps and the same mistakes. In fact, the Students' answers to Questions 3, 4, 5, 6, 7(a), 8 and 10(a) are essentially written the same word-for-word. Moreover, where the Students included descriptions or conclusions (rather than mathematical steps), their descriptions or conclusions used virtually identical language. Professor Carvers stated that in his experience, given the myriad of ways that a student could approach each problem, it is highly unlikely that two students working independently would produce such similar answers on virtually all of the questions.
48. In his affidavit, Professor Carvers made a side-by-side comparison of the Students' examination booklets, pointing out the following highly suspicious irregularities:
 - (a) both students wrote "3(c)" as part of their solutions, even though there was no question 3(c) on the Midterm.
 - (b) both students used a technique that had not been taught at that point in the course when the Midterm was written. The use of this technique is distinctive and unusual and was not used by most other students in the Course.
 - (c) in one answer, both students used the same square and round brackets in their answers, which weren't part of the problem given.
 - (d) in another answer, both students' answers omit a minus sign, but still arrive at the correct final solution.

49. Assistant Discipline Counsel submitted that the evidence is sufficient to establish that the Students collaborated on the Midterm and asked for a finding of guilt for each Student on Charge 1, that the Students knowingly obtained unauthorized assistance in connection with the Midterm, contrary to section B.I.1(b) of the Code.

D. Decision of the Tribunal

50. The onus is on the University to establish on the balance of probabilities, using clear and convincing evidence, that the academic offence charged has been committed by the Students.
51. The evidence establishes that the answers of the Students were virtually identical and that parts of at least seven answers on the Midterm were identical word for word. The fact that both Students referred to question 3(c) when there was no such question on the Midterm suggests that the Students collaborated on their answers.
52. The Tribunal notes that all the University must prove on a balance of probabilities is that an offence occurred. The evidence in this case does not support a particular theory of misconduct. The evidence supports a theory either that the Students worked together, or that one Student copied the answers of the other, or that both Students copied the same answers from another source. However they went about it, the evidence establishes on a balance of probabilities that misconduct occurred. As noted by the Tribunal in the case of the *University of Toronto and S.R.* (Case No. 708, June 6, 2014) (“S.R.”) at paragraph 33, Charge 1 under subsection B.I.1(b) of the Code covers both obtaining unauthorized assistance from another person, or, through the operation of subsection B.II.1.(a), being a party to the offence of aiding or assisting another student to obtain unauthorized assistance.
53. Consequently, the Tribunal finds that the Students are guilty of obtaining unauthorized assistance, contrary to section B.I.1(b) of the Code.

E. Penalty

54. The matter continued with a hearing on the appropriate sanction. This was a first offence for both Students, and the sanction sought by the University for each Student is the same:
- (a) a final grade of zero in the course MATA303H3F in Fall 2020;
 - (b) the Student will be suspended from the University of Toronto for a period of two years from the date of the Tribunal's Order;
 - (c) this sanction will be recorded on the Student's academic record and transcript for a period of three years from the date of the Tribunal's order; and
 - (d) that this case be reported to the Provost with the Student's name withheld, for publication of a notice of the decision of the Tribunal and sanctions imposed.
55. Appendix "C" to the Code provides the Provost's Guidance on Sanctions. The Provost recognizes that the particular circumstances of each case will, of course, have to be taken into account in each case. Nevertheless, to promote consistency across the University, the Provost has provided guidance on the range of sanctions the Provost may ask the Tribunal to impose. To provide guidance to students facing a hearing at the Tribunal, absent exceptional circumstances, the Provost will request that the Tribunal: (a) impose a final grade of zero in any course where a student is found to have committed an offence; and (b) suspend a student for two years for any offence involving academic dishonesty, where a student has not committed any prior offences. In this case, as the Students did not attend before the Tribunal, and submitted no evidence, there is no evidence of exceptional circumstances which would cause the Tribunal to depart from the Provost's guidance.
56. The Tribunal was asked to consider the *University of Toronto and Mr. C.* factors (Case No. 1976/77-3, November 5, 1976) long recognized as the leading decision on sentencing principles. These factors are:
- (a) the character of the person charged;

- (b) the likelihood of repetition of the offence;
 - (c) the nature of the offence committed;
 - (d) any extenuating circumstances surrounding the commission of the offence;
 - (e) the detriment to the University by the offence; and
 - (f) the need to deter others from committing a similar offence.
57. The Students did not participate in any aspect of the academic discipline proceeding, nor did the Students attend the hearing. Ignoring the discipline process is suggestive of a disregard for the seriousness of the conduct the Students were engaged in, which was an act of deliberate dishonesty. As the Students failed to engage in the discipline process, there is no evidence of extenuating circumstances, remorse, taking responsibility for their conduct or insight. Therefore, there are no mitigating factors to be taken into consideration for either character or extenuating circumstances.
58. There is no evidence that permits a finding on likelihood of repetition. It should be noted that the Midterm in question was written in October 2020, and neither Student has enrolled in a course since 2021.
59. Assistant Discipline Counsel asked the Tribunal to consider together the factors of the nature of the offence, detriment to the University, and deterrence. Referring again to S.R. where two students collaborated during an in-person midterm examination, the Tribunal stated at paragraph 42, “the nature of the offence is a serious one, and the offence causes significant detriment to the University. The Student copied and shared answers during a test with another student in order to obtain a more favourable grade that he did not deserve. His conduct is unfair to other students whose evaluation depends on their own hard work and attention to their studies. It undermines the integrity of the University evaluation process, and the honesty that must underly the teaching and learning relationship. As this kind of behaviour can be difficult to detect, it is important that the penalty be sufficient to deter others from similar misconduct.”

60. General deterrence is even more important in cases which arose during the pandemic. At the time of this Midterm, in October 2020, students were learning and writing examinations remotely. When students are writing exams remotely there are few safeguards to prevent dishonesty and it is apparent that these Students took advantage of that situation. The University must rely on all students to uphold the honour system. It is important that the penalty in this case sends the message to the University community that the pandemic did not create an extenuating circumstance in which cheating is tolerated.
61. Even though these Students appear to no longer reside at the addresses they previously provided to the University, they have not enrolled in courses since 2021 and no longer monitor their university email address, it is important that cases of academic dishonesty be prosecuted. The University must deter this conduct, and not incentivize students to sit out the discipline process in the hope that the University will eventually drop the case. There is no time limit on a student registering for more courses. Without prosecuting the case and obtaining a finding of guilt where warranted, there will be no notation on a student's transcript that they have engaged in academic misconduct. That would enable students to further mislead anyone to whom their transcript might be shown in the future.
62. In addition to considering the Mr. C. factors, the Tribunal was provided with a summary of other cases of unauthorized assistance and plagiarism. These cases demonstrate that a two-year suspension is generally consistent with the sanctions administered to other students in similar circumstances. The Tribunal also notes the importance of like cases being treated alike, and that the Tribunal renders decisions that are consistent, so that the treatment a student receives is not dependent on the panel the student draws, see *the University of Toronto and X.Y.* (Case No. 1147, November 11, 2021) at paragraph 33.

F. Conclusion

63. The Tribunal finds that the Students are guilty of obtaining unauthorized assistance, contrary to section B.I.1(b) of the Code. Having found the Students guilty of Charge 1, the University has withdrawn Charges 2 and 3.
64. For these reasons the Tribunal Orders that the following sanctions shall be imposed on the Students:
- (a) a final grade of zero in the course MATA303H3F in Fall 2020;
 - (b) the Students will be suspended from the University of Toronto for a period of 2 years from the date of the Tribunal's Order; and
 - (c) this sanction will be recorded on the Students' academic record and transcript for a period of three years from the date of the Tribunal's order.
65. This case shall be reported to the Provost, with the Students' name withheld, for publication of a notice of the decision of the Tribunal and the sanctions imposed.

Dated at Toronto this 7th day of March, 2023

Original signed by:

Simon Clements, Chair
On behalf of the Panel